



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,877	01/16/2004	John Boyland	0403-4107	8433
27123	7590	09/12/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			SHARP, JEFFREY ANDREW	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 09/12/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,877

Applicant(s)

BOYLAND ET AL.

Examiner

Jeffrey Sharp

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,8,10,11 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

[1] Claims 1-19 are pending.

Claims 5, 6, 8, 10, 11, and 16-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 05 August 2005.

Applicant's remarks with regard to the restriction requirement mailed 14 July 2005 have been acknowledged and fully considered. In response to Applicant's assertion that "undue diverse searching should not be required,"¹ Applicant is in no position to determine what is seriously burdensome to the examiner. Accordingly, restriction is proper.

Claim Objections

[2] Claims 13 and 15 are objected to because of the following informalities:

Claim 13 is indefinite, because a cylindrical tube may be situated vertically or horizontally. Consequently, the cylindrical tube housing may have multiple "horizontal" ends. Such a structural gap renders the claim indefinite, because the location of "at least one fastening aperture" cannot be determined.

As for claim 15, the fastener of elected specie 2 (as well as others) does not appear to be "threaded through the fastening aperture in the housing". The fastener depicted in Figures 5a-b

¹ page 2 of election, lines 8-9.

Art Unit: 3677

(elected specie II) appears to be "*received in* a fastening aperture in the housing". Accordingly, the claim has been broadly interpreted as --...wherein the fastener is received in the fastening aperture in the housing and maintains a plurality of contact areas with the housing.--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

[3] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[4] Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Grube US-3,704,507.

In short, Grube teaches a single element fastener having a base extension tab (65,66), aperture engaging portion (63,75) extension block having a bore (57) configured to accept a securing bolt, said extension tab (65,66) configured to contact an interior wall having both complimentary (axial view) and non-complimentary contours (profile view) to a fastening aperture (75).

Applicant is reminded that claims in a pending application should be given their broadest

Art Unit: 3677

reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

[5] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Palumbo US-3,970,399.

In short, Palumbo teaches a fastener (10) having a base extension tab/interior pressure application surface (14) and fastening aperture-engaging portion/fastening aperture pressure application edge (17) having a complimentary contour with a fastening aperture (31,31'), and a non-complimentary contour with a fastening aperture (27). The fastener has an extension block/extension body (23) configured to accept (via bore 24) an elongated part (33) of a securing bolt (34). The extension tab (14) is configured to contact an interior wall of the first assembly element (13), and the aperture-engaging portion (17) is configured to contact the first assembly element (13) in a plane of said fastening aperture (27) and provide resistance to lateral forces². In its broadest sense, the extension block (23) and base extension tab (14) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (27) in the first assembly element (13). Element (13) may be construed as a "housing", and element (12) may be construed as a "housing cover".

[6] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Permoda US-4,601,621.

In short, Permoda teaches a fastener (12) having a base extension tab/interior pressure application surface (22) and fastening aperture-engaging portion/fastening aperture pressure

² pertinent to instant claim 9.

Art Unit: 3677

application edge (near 22) having a complimentary contour with a fastening aperture (38), and a non-complimentary contour with a fastening aperture (38). The fastener has an extension block/extension body (28) configured to accept (via bore 24) an elongated part (36) of a securing bolt (14). The extension tab (22) is configured to contact an interior wall of the first assembly element (18), and the aperture-engaging portion (near 22) is configured to contact the first assembly element (18) in a plane of said fastening aperture (36) and provide resistance to lateral forces³. In its broadest sense, the extension block (28) and base extension tab (22) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (36) in the first assembly element (18). Element (18) may be construed as a "housing", and element (20) may be construed as a "housing cover"..

[7] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reeves US-5,368,426.

In short, Reeves teaches a fastener (10) having a base extension tab/interior pressure application surface (18,26) and fastening aperture-engaging portion/fastening aperture pressure application edge (22) having a complimentary contour with a fastening aperture (45), and a non-complimentary contour with a fastening aperture (44). The fastener has an extension block/extension body (14) configured to accept (via bore 16) an elongated part of a securing bolt (48). The extension tab (18,26) is configured to contact an interior wall of the first assembly element (42), and the aperture-engaging portion (22) is configured to contact the first assembly element (42) in a plane of said fastening aperture (44,45) and provide resistance to lateral

³ pertinent to instant claim 9.

Art Unit: 3677

forces⁴. In its broadest sense, the extension block (14) and base extension tab (18,26) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (44,45) in the first assembly element (42). Element (42) may be construed as a "housing", and element (36) may be construed as a "housing cover".

[8] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Winton, III US-5,489,175.

In short, Winton, III teaches a fastener (10) having a base extension tab/interior pressure application surface (16) and fastening aperture-engaging portion/fastening aperture pressure application edge (adjacent 14, 22 in figure 5) having a complimentary contour with a fastening aperture (17), and a non-complimentary contour with a fastening aperture (base extension tab is larger than aperture 17, and thus is, in a sense, "non-complimentary"). The fastener has an extension block/extension body (13) configured to accept (via bore 12) an elongated part of a securing bolt (not shown). The extension tab (16) is configured to contact an interior wall of the first assembly element (15), and the aperture-engaging portion (adjacent 14, 22 in figure 5) is configured to contact the first assembly element (15) in a plane of said fastening aperture (17) and provide resistance to lateral forces⁵. In its broadest sense, the extension block (13) and base extension tab (16) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (17) in the first assembly element (15). Element (15) may be construed as a "housing", and the element (not shown) to be attached by an elongated securing bolt may be construed as a "housing cover".

⁴ pertinent to instant claim 9.

[9] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams US-5,674,023.

In short, Williams teaches a fastener (16) having a base extension tab/interior pressure application surface (26) and fastening aperture-engaging portion/fastening aperture pressure application edge (24) having a complimentary contour (top view) with a fastening aperture (14), and a non-complimentary contour (side view) with a fastening aperture (14). The fastener has an extension block/extension body (18,22,30) configured to accept (via bore 32,34) an elongated part of a securing bolt (38,40). The extension tab (26) is configured to contact an interior wall of the first assembly element (10), and the aperture-engaging portion (24) is configured to contact the first assembly element (10) in a plane of said fastening aperture (14) and provide resistance to lateral forces⁶. In its broadest sense, the extension block (18,22,30) and base extension tab (26) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (14) in the first assembly element (10). Element (10) may be construed as a "housing", and element (12) may be construed as a "housing cover".

[10] As they are understood, claims 1-4, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Marshall et al. US-3,425,725.

In short, Marshall et al. teach a fastener (40) having a base extension tab/interior pressure application surface (56,62,48) and fastening aperture-engaging portion/fastening aperture pressure application edge (44, sides of 84) having a complimentary contour (top view) with a

⁵ pertinent to instant claim 9.

Art Unit: 3677

fastening aperture (36,34,38), and a non-complimentary contour (side view) with a fastening aperture (36,34,38). The fastener has an extension block/extension body (68) configured to accept (via bore 72) an elongated part of a securing bolt (74). The extension tab (56,62,48) is configured to contact an interior wall of the first assembly element (14), and the aperture-engaging portion (44, sides of 84) is configured to contact the first assembly element (14) in a plane of said fastening aperture (36,34,38) and provide resistance to lateral forces⁷. In its broadest sense, the extension block (68) and base extension tab (56,62,48) are configured to apply structural support (against removal) on opposing sides of the fastening aperture (36,34,38) in the first assembly element (14). Element (14) may be construed as a "housing", and element (24) may be construed as a "housing cover".

Claim Rejections - 35 USC § 103

[11] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[12] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Palumbo US-3,970,399.

Palumbo teaches every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

⁶ pertinent to instant claim 9.

Art Unit: 3677

However, although Palumbo fails to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Palumbo would not depart claim 13 (and dependents 14 and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

[13] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Permoda US-4,601,621.

Permoda teaches every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

However, although Permoda fails to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Permoda would not depart claim 13 (and dependents 14 and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

[14] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Reeves US-5,368,426.

Reeves teaches every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

However, although Reeves fails to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Reeves would not depart claim 13 (and dependents 14

⁷ pertinent to instant claim 9.

Art Unit: 3677

and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

[15] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Winton, III US-5,489,175.

Winton, III teaches every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

However, although Winton, III fails to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Winton, III would not depart claim 13 (and dependents 14 and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

[16] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Williams US-5,674,023.

Williams teaches every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

However, although Williams fails to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Williams would not depart claim 13 (and dependents 14 and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

Art Unit: 3677

[17] As they are understood, claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over Marshall et al. US-3,425,725.

Marshall et al. teach every limitation disclosed in the instant claim 12 as discussed above, except for a cylindrical housing.

However, although Marshall et al. fail to expressly disclose a *cylindrical* housing, a mere change in shape of the housing taught by Marshall et al. would not depart claim 13 (and dependents 14 and 15 therefrom) from obviousness. A change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996).

Conclusion

[18] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

The following cited references not relied upon for the sake of redundancy, appear to anticipate or at least suggest the limitations of instant claims 1-4, 7, 9, and 12-15:

US D404996 S	USPAT	Ross; Harold D.
US D406051 S	USPAT	Ross; Harold D.
US 6454337 B2	USPAT	Steffens; Charles J. et al. (<i>Figure 12</i>)
US 5997227 A	USPAT	Bundy; Don
US 5810501 A	USPAT	Ross; Harold D.
US 3527280 A	USPAT	MACNORIUS BRONISLAUS JOSEPH
US 3106994 A	USPAT	SCOTT JOHN W.

Other pertinent art related to the instant claims and disclosure is as follows:

US 3502917 A	USOCR	BIZOE RAYMOND D
US 4444301 A	USPAT	Granberry; Roger A.
US 4957402 A	USPAT	Klein; Georg D. et al.
US 5452978 A	USPAT	Winton, III; George R.
US 5641240 A	USPAT	Grieser; Jerry D. et al.
US 6309006 B1	USPAT	Rippberger; Gary

Art Unit: 3677

[19] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

NEW CENTRAL FAX NUMBER

Effective July 15, 2005

On July 15, 2005, the Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

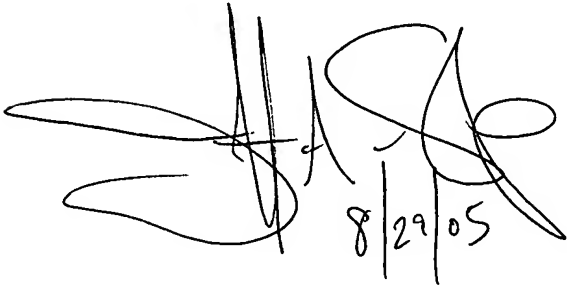
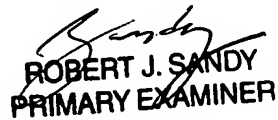
Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and 571-273-8300 will be the only facsimile number recognized for "centralized delivery".

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS

A handwritten signature in dark ink, appearing to be 'JAS', is written over the printed name 'JAS'. Below the signature, the date '8/29/05' is handwritten.A handwritten signature in dark ink is written over the printed name 'ROBERT J. SANDY'. Below the signature, the title 'PRIMARY EXAMINER' is printed in bold, uppercase letters.